

**Probation Committee
Judicial Conference of Indiana**

October 14, 2005
Minutes

1. Members present. The following members of the committee were present: Douglas R. Bridges, David L. Chidester, Thomas J. Felts, Thomas R. Lett, Mark D. Stoner, Chair.
2. Staff present. Jane Seigel, Michelle C. Goodman, and Bob Champion provided the committee with staff assistance.
3. Welcome of new members and Approval of Minutes. Judge Stoner welcomed the new committee members to the meeting. The Committee approved the minutes from the July 15, 2005 meeting.
4. Sex offender probation condition. The Committee discussed condition #15 from the Recommended Special Probation Conditions for Adult Sex Offenders, which was ruled unconstitutional by the Indiana Court of Appeals in Fitzgerald v. State, 805 N.E.2d 857 (Ind.Ct.App. 2004). The Committee had previously received a copy of Fitzgerald and the possible options for changing the language of the condition. After discussing the options presented, the Committee voted unanimously to accept the third option: "You shall not be present at schools, playgrounds, or day care centers unless given permission by the court." The Committee asked that this be presented at the next Board of Directors meeting for final approval.
5. Probation Officer Regional Meetings. Bob Champion gave the Committee an overview of the schedule for the Probation Officer Regional Meetings. The dates and locations are: Nov. 2 – Valparaiso; Nov. 3 – Fort Wayne; Nov. 4 – Lebanon; Nov. 9 – Jasper; and Nov. 10 – Seymour. The Committee members were invited to attend lunch at the Regional Meetings and the following members indicated they would attend: Judge Chidester – Valparaiso; Judge Felts – Fort Wayne; Judge Lett – Lebanon; Judge Bridges and Judge Stoner.
6. Interstate Compact. Michelle Goodman reported that Jenny Bauer attended the National meeting on Jane Seigel's behalf since the meeting overlapped with the Judicial Conference. At the meeting it was announced that the NACIS system implementation was pushed back to next summer. We think that the "train the trainers" sessions will occur in early 2006 and we will then conduct training session for our officers. One important aspect of the NACIS system is that the counties acquire the proper equipment to interact with the system and this should remain a priority in preparation for the implementation of the system. The Committee requested the staff check to see which counties still do not have Internet access and the reason why they have not been able to gain access.
7. Probation administration issues.
 - a. Exam requests. Bob Champion reported to the Committee that he has received requests for the probation officer certification exam to be offered in a Spanish version and a version for the visually impaired. He indicated that as with other

issues regarding accommodations for the exam he had spoken with Mary Godsey to determine how the Board of Law Examiners (BLE) handles similar requests. BLE does not offer a Spanish version of the test, but does offer accommodations for the visually impaired by permitting an oral examination. Mr. Champion reported that BLE in conducting oral exams the exam is videotaped and the tape is kept as record of the exam. After lengthy discussion, the Committee decided not to provide a Spanish version and if counties felt they had a compelling reason for such an exam they could petition for an exception. The Committee also decided to permit an oral exam for the visually impaired.

- b. Citizenship requirement for probation officer. Judge Stoner raised an issue with the Committee regarding the citizenship requirement for probation officer certification. He asked the Committee whether they would consider permitting legal residents for certification as probation officers. The Committee discussed whether citizenship was required for other similar jobs and Mr. Champion indicated that most police agencies had such requirements. Judge Stoner said he would continue to research this issue for the next meeting.
 - c. Probation Officers as independent contractors. Bob Champion raised the question of whether probation officers could be independent contractors for the courts. The issue recently came up with an individual who serves as a part time probation officer in a city court who indicated at orientation that she was a contract probation officer. Mr. Champion raised the concern about whether a person in this situation could attend orientation since in the past we have required probation officers to be court employees for certification purposes. The Committee reviewed the statutory language regarding the employment of probation officers, which states that the court “appoints” the probation officer. The Committee requested the staff to research the issue further and to research whether “appoint” means “employ” in this context for the next meeting.
8. Administrative fees. Judge Stoner raised the issue concerning the administrative fees ability to cover probation officer salary increases. He gave an overview of the issue for those who did not attend the previous meeting. The Committee reviewed the history of how the amount of the administrative fee was determined. Judge Stoner will bring some projections regarding Marion County’s situation to the next meeting and requested other Committee members examine their counties’ situation in preparation for the next meeting.
 9. Probation conditions for special populations. Judge Stoner distributed some draft conditions Marion County is considering for probation conditions for gang offenses. He asked whether the Committee should make recommendations for probation conditions for special populations since the Board of Directors has approved such conditions for sex offenders. The Committee suggested that this issue be raised with the Probation Officers Advisory Board for their feedback on the proposed gang offense conditions and to suggest other possible areas where special conditions may be appropriate (i.e. domestic violence, meth, etc.). The Committee asked for a report on this at the next meeting.
 10. Sentencing Policy Study Committee. Jane Seigel reported that the Sentencing Policy Study Committee discussed several issues concerning community corrections including the use of evidence-based practices to award grant for community corrections projects. She also reported that there was a discussion regarding the need for parole, probation, and community corrections, whether they should be combined, and which entity should

oversee these services. The Committee received a preliminary draft of the pre-trial services fee discussed by the Study Committee, which we believe will be supported in the legislature. Ms. Seigel reported that the Public Defender's Commission still objects to the fee. The Committee discussed the issue of those counties that offer pre-trial supervision outside of the probation department and suggested that language could be added to Section 3.3 to allow the fee to be collected in "court approved pre-trial services programs". Ms. Seigel suggested that the Committee review models regarding community supervision to see how the Committee would respond to the question of consolidated community supervision services, who should oversee these services, and the reasons for the responses.

11. DOC request regarding information for judges. Judge Stoner informed the Committee that DOC has inquired about what type of information judges want from DOC regarding inmates. Michelle Goodman distributed a draft form developed by the Probation Officers Advisory Board and DOC several years ago and a list summarizing the information contained on the form with some additions by staff. The Committee reviewed the materials and made the following additions: copies of incident reports, risk assessments, gang information, protection orders against the offenders. Judge Stoner reported that he will be attending a meeting next week to discuss these items with DOC superintendents.

12. 2006 meeting schedule. The Committee set the following meeting dates for 2006:

January 20, 2006
February 10, 2006 (if needed)
April 28, 2006
July 14, 2006
October 13, 2006

All meetings are scheduled for 1:00 p.m. (Indianapolis time) at the Indiana Judicial Center.

Respectfully Submitted,

Michelle C. Goodman